

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
EASTERN DIVISION**

UNITED STATES OF AMERICA)	CASE NO.1:05CR196
)	
Plaintiff)	JUDGE PATRICIA GAUGHAN
)	
-vs-)	
)	
JEFFREY AMBROSIO)	
)	
Defendant)	

DEFENDANT’S SENTENCING MEMORANDUM

Defendant appeared before this court and entered a plea of guilty to the offenses of, Attempted Tax Evasion 26 U.S.C. § 7201 and Wire Fraud 18 USC § 1343 on May 18, 2005. A pre-sentence report has been prepared and filed with the court.

UNRESOLVED SENTENCING ISSUES

Defendant now addresses the following issues which are relevant to this court’s determination of sentence in this case.

a) *DEFENDANT’S UNDISCHARGED PRISON SENTENCES*

The Pre-sentence Report (hereafter “PSR”), in its review of the relevant conduct that this Court has before it, concludes that the defendant’s conduct in the aforementioned guilty pleas is inextricably related to the conduct for which Mr. Ambrosio is serving his undischarged state sentence. (See *PSR* at ¶¶ 63,64,65). In these state court convictions, styled *State of Ohio v. Jeffrey Ambrosio*, Lorain County Common Pleas Court, Case Numbers 02CR060611, 03CR62289, and 03CR063857, Mr. Ambrosio was sentenced to five (5) years of incarceration with all cases run concurrently. The PSR indicates Mr. Ambrosio has zero (0) criminal history points based on the interrelatedness of the offenses for which he has been convicted, along with the conduct involved in the case at bar.

Due to the relatedness of all of the charges, the Government and Mr. Ambrosio have requested this Court, per the plea agreement, to sentence Mr. Ambrosio to a term of incarceration concurrent to the term received in state court. Furthermore, the intent of the plea agreement is to allow Mr. Ambrosio, if the Court agrees, to have his sentence adjusted so that he may be given credit of the time already served in the Ohio Bureau of Prisons. The United States Sentencing Guidelines (hereafter USSG) are instructive in this regard; USSG § 5G1.3(b) states the following:

- (b) If subsection (a) does not apply, and a term of imprisonment resulted from another offense that is relevant conduct to the instant offense of conviction under the provisions of subsections (a)(1), (a)(2), or (a)(3) of §1B1.3 (Relevant Conduct) and that was the basis for an increase in the offense level for the instant offense under Chapter Two (Offense Conduct) or Chapter Three (Adjustments), the sentence for the instant offense shall be imposed as follows:
 - (1) the court shall adjust the sentence for any period of imprisonment already served on the undischarged term of imprisonment if the court determines that such period of imprisonment will not be credited to the federal sentence by the Bureau of Prisons; and

- (2) the sentence for the instant offense shall be imposed to run concurrently to the remainder of the undischarged term of imprisonment.

CONCLUSION

For the reasons explained above and such additional considerations as may emerge at the sentencing hearing, defendant requests this court to do the following in imposing sentence:

Requested Sentencing Orders and Recommendations.

This Court is asked to sentencing the defendant as follows:

- 1) Adjust the defendant's sentence pursuant to USSG § 5G1(3)(b)(1), allowing defendant to be credited for the period of imprisonment he has served, prior to the imposition of sentence in the above-captioned case, in official detention in the Ohio Bureau of Prisons.
- 2) Order the sentence in this case to be served concurrently with the undischarged terms of imprisonment in Lorain County, Ohio Case Numbers 02CR060611, 03CR62289, and 03CR063857. USSG § 5G1.3;
- 3) Under 18 U.S.C. §3621(b)(4)(B), recommend to the Bureau of Prisons that it designate the defendant's place of imprisonment to be Grafton Correctional, Grafton Ohio.
- 4) Under 18 U.S.C. §3585(a), order that the sentence commence on such date as the defendant is returned to Grafton Correctional Institute and this Honorable Court issues a Judgement and Commitment Order.

Respectfully submitted,
Joseph P. Morse & Associates, Co.

/s/ Joseph P. Morse
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Attorney for Defendant

CERTIFICATE OF SERVICE

A copy of the foregoing Defendant's Sentencing Memorandum has been served upon
opposing counsel via the Court's electronic filing service.

/s/ Joseph P. Morse
JOSEPH P. MORSE
Attorney for Defendant